

DEPARTMENT OF SOCIAL SERVICES

44 P Street, Sacramento, CA 95814



July 16, 1984

ALL-COUNTY INFORMATION NOTICE I- 67-84

TO: ALL COUNTY WELFARE DIRECTORS

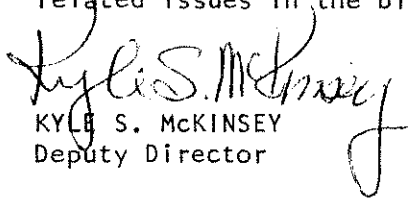
SUBJECT: FEDERAL LEGISLATION AFFECTING AFDC (HR 4170)

REFERENCE:

Attached for your information is a copy of the June 22, 1984 Congressional Record which contains a summary of legislation (HR 4170) that will make several changes in the AFDC program. This legislation has passed both houses of Congress and is expected to be signed by the President in the near future. Much of the legislation has an October 1, 1984 implementation date. Once the bill is signed, it is expected that federal regulations will be promulgated quickly, probably in August 1984. We have also attached a departmental summary of HR 4170 for your use.

The Department is in the process of developing an implementation plan. You will be notified of the details when it is completed.

Any questions you may have concerning this legislation should be directed to Kathy Lewis, Chief, AFDC Program Development Bureau, at (916) 322-5387. Dave Mullins, Chief, AFDC Policy Implementation Bureau should be contacted regarding state regulations questions at (916) 322-5330. Frank Rondas, Chief, Employment Programs Bureau, should be contacted regarding employment related issues in the bill.


KYLE S. MCKINSEY
Deputy Director

Attachment

cc: CWDA

June 22, 1984

benefit amount can result in adjustment for less than the full retroactive period. The proposed change would make it possible to adjust benefits paid for the entire retroactive period. The provision would apply to retroactive benefits (either OASDI or SSI) payable beginning 7 months after enactment.

Conference agreement

The conference agreement follows the Senate amendment.

THE EXCLUSION FROM INCOME OF ALASKA BONUS PAYMENT

Present law

An amendment to the SSI statute in 1975 provided for the exclusion from countable income of the Alaska "longevity bonus." This exclusion is defined in the SSI law as a monthly payment made by a State under a program established prior to July 1, 1973, if eligibility for the payment is not based on need and is based solely on attainment of age 65 and duration of residence in the State. As the result of an Alaska State Supreme Court decision, Alaska enacted a revision that reduces the residency requirement from 25 years to one year.

The bonus payment is presently \$250 monthly per person.

House bill

No provision.

Senate amendment

The conference agreement provides for the continual exclusion from countable income of Alaska's longevity bonuses, even though a change was made in the bonus program to conform it with the Supreme Court decision which may disqualify the program as not having been established before July 1, 1973. Effective on enactment.

Conference agreement

The conference agreement follows the Senate amendment with the modification that continued disregard of the Alaska bonus would apply only to those individuals who, prior to October 1, 1985, meet the 25-year residency requirement of eligibility for the Alaska bonus as it was in effect prior to the recent amendments mandated by the courts. This will avoid an abrupt cut-off for those individuals who have been receiving this disregard for many years or who had, for many years, reason to expect that the disregard would be available.

PART 2—IMPROVEMENTS IN AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) PROGRAM

1. Gross Income Limitation

Present law

Eligibility for AFDC is limited to families with gross incomes (income before application of any disregards) at or below 150 percent of the State's standard of need.

House bill

Sets a new gross income limit of 130% of poverty, updated annually. Effective October 1, 1984.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with the following modification: the gross income limitation is increased to 185 percent of the State standard of need.

2. Work Expense Deduction

Present law

States are required to disregard to first \$75 of monthly earnings for full-time employment (in lieu of itemized work expenses). A lower work expense deduction must be established for part-time workers.

House bill

States would be required to disregard the first \$75 of monthly earnings for full- and part-time employment. Effective October 1, 1984.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

3. Continuation of \$30 Disregard From Earned Income

Present law

States are required to disregard the following amount of a recipient's monthly earnings, in the following order: (1) the first \$75 (less for part-time work); (2) child care costs up to \$160 per child; and (3) plus one-third of earnings not previously disregarded. The \$30 plus one-third disregard is allowed only during the first 4 consecutive months in which a recipient has earnings in excess of the standard work expense (\$75) and child care disregards.

House bill

Requires the application of the \$30 disregard to earnings in months after the first four months in which the \$30 plus one-third disregard is applied. The one-third disregard would continue to be limited to four months. Effective October 1, 1984.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with the following modification: the \$30 disregard would be limited to 12 months. The one-third disregard would continue to be limited to 4 months.

4. Work Transition Allowance

Present law

In determining benefits for AFDC recipients, States must disregard \$30 plus one-third of monthly earnings, after also disregarding specified amounts for work expenses and child care. The \$30 plus one-third disregard may be applied only for four months.

If a family loses eligibility for AFDC because of the four-month limit on the \$30 plus one-third disregard, it also simultaneously loses categorical eligibility for Medicaid. Categorical Medicaid eligibility is retained after the loss of AFDC eligibility only in the case of families whose earnings increase to the point that they would be eligible even if the \$30 plus one-third disregard were applied. These families are eligible for Medicaid for four additional months.

House bill

Establishes an AFDC "work transition allowance" payable to recipients who lose AFDC benefits because they are no longer eligible for the \$30 plus one-third disregard of earnings. The allowance is equal to \$10 a month for a period of nine months after the family loses AFDC. States may continue the allowance for an additional six months in the case of a family that would be eligible for AFDC if the \$30 plus one-third disregard were applied. The allowances are eligible for Federal matching on the same basis as regular AFDC benefits, and recipients of the allowances are considered recipients of AFDC for all purposes of the Social Security Act, including Medicaid.

Families eligible for the allowance include those who lose eligibility for regular AFDC benefits in the months following enactment, as well as those who have previously been terminated from the AFDC rolls because of the loss of the \$30 plus one-third disregard. Previously terminated families would be

limited to those who would otherwise have been eligible for AFDC if the \$30 plus one-third disregard had been applied, and who make application for the allowance by October 1, 1985. Effective October 1, 1984.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with the following modifications: (1) the \$10 monthly AFDC check is eliminated; and (2) families who have been previously terminated from AFDC due to the loss of the \$30 plus one-third disregard are eligible for the work transition status and Medicaid but must disclose any private health insurance coverage at the time of application, apply within six months from the date regulations become final, and must have been continuously eligible for AFDC if the \$30 and one-third disregard were applied. The work transition provision requires States to provide 9 months of Medicaid coverage to families who lose eligibility for AFDC due to the termination of the one-third disregard. States have the option of extending this coverage for an additional 6 months in the case of a family that would be eligible for AFDC if the \$30 plus one-third disregard were applied.

5. Clarification of Earned Income Provisions

Present law

The AFDC statute was amended in 1981 to change the way in which earned income is counted for purposes of determining eligibility and benefit amounts. As amended by Public Law 97-35, the law currently requires the States to disregard the following amounts of a family's earned income:

Eligibility Determination: (1) the first \$73 of monthly earnings for full-time employment; and (2) the cost of care for a child (or incapacitated adult), up to \$160 per child per month.

Benefit Calculation: (1) the first \$75 of monthly earnings for full-time employment; (2) child care cost up to \$160 per child per month; and (3) one-third of earnings not previously disregarded.

The \$30 plus one-third disregard is allowed only during the first 4 consecutive months in which a recipient has earnings in excess of standard work expense and child care disregards.

Courts in several States have been asked to interpret whether the term "earned income" refers to the gross amount earned by an individual before deductions are taken (for income taxes, insurance, FICA, support payments, or other items, regardless of whether the deduction is voluntary or involuntary), or whether the term refers to net earnings, after such deductions are taken. Regulations issued by the Department of Health and Human Services require that the term be interpreted as referring to gross earnings. The 3rd and 4th Circuit Courts of Appeal have ruled in the Department's favor. However, the 9th Circuit Court of Appeals has ruled that the term must be interpreted as referring to net earnings. The Supreme Court recently agreed to hear the case.

House bill

Amends the AFDC statute to make clear that the term "earned income" means the gross amount of earnings, prior to the taking of payroll or other deductions. Effective on enactment.

Senate amendment

Same provision with technical differences.

Conference agreement

The conference agreement follows the Senate amendment.

6. Exclusion of Burial Plots, Funeral Agreements, and Certain Property From Resource Test

Present law

There is no exclusion in the AFDC resource test for burial plots or funeral agreements. Real property is considered as a resource available to the family both when actually available and when the applicant or recipient has a legal interest in a liquidated sum and has the legal ability to make the sum available for support and maintenance.

House bill

Exempt from the AFDC resource limitation, one burial plot per family member, funeral agreements, and real property which the household is making a good faith effort to sell at a reasonable price and which has not been sold. Effective October 1, 1984.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with a modification establishing an AFDC policy on real property that is similar to SSI policy. The managers intend that by regulation, real property which the family is making a good faith effort to sell would be exempt for six months (with State option for an additional 3 months) but only if the family agrees to use the proceeds from the sale to repay the AFDC paid. Any remaining proceeds would be considered a resource.

7. Federal Matching for CWEP Expenses

Present law

The AFDC statute permits States to operate community work experience programs (CWEP) in which AFDC recipients perform community work as a condition of eligibility. Persons who are required to register for the work incentive (WIN) program would also generally be required to participate in community work experience programs.

States must provide reimbursement to a CWEP participant for transportation and other costs that the State determines are necessary and due to participation in CWEP. For purposes of Federal matching, this amount is limited to \$25 a month.

House bill

Requires States to reimburse an AFDC recipient for costs incurred by him where the State is unable to provide directly any necessary transportation and day care services. (Day care costs may be reimbursed up to a limit of \$160 per month per child.) These expenditures are eligible for Federal matching as administrative costs. Effective October 1, 1984.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill but limits reimbursement of day care expenses to those determined by the State agency to be reasonable, necessary and cost effective. In no case could the reimbursement exceed \$160 per month per child.

8. Retrospective Budgeting and Monthly Reporting Made Optional

Present law

States are required to determine monthly benefits retrospectively, on the basis of the actual income of the previous month. Eligibility is determined prospectively, on the basis of the current month's circumstances. States must require each family to report monthly on income, family composition, etc. The Secretary may waive the monthly reporting requirement for specified classes of recipients, upon a showing by the State that the administrative cost of monthly reporting for such recipients is not worthwhile. Retrospective budgeting may not be waived.

House bill

Allows rather than requires the States to use a retrospective budgeting and monthly reporting system. Provides Federal matching for State supplements paid under a retrospective budgeting and monthly reporting system, if the State elects to pay such supplements when the system cannot respond promptly to changes in immediate needs. Permits the Secretary to grant waivers to promote compatibility between the AFDC and food stamp monthly reporting and retrospective budgeting systems if a State chooses to operate such a system in AFDC. Prohibits the imposition of any penalty on a State for past failure to comply with the retrospective budgeting and monthly reporting system. Effective October 1, 1984.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with the following modifications: (1) retrospective budgeting is mandatory for cases filing a monthly report; (2) monthly reporting is used only where cost effective, but is generally required for cases with a recent work history and earned income; (3) the Secretary of Health and Human Services is authorized to grant waivers to promote compatibility between the AFDC and food stamp monthly reporting and retrospective budgeting systems (approved waivers should result in no net cost to the Federal government); and (4) the provision authorizing Federal matching for State supplements paid under a retrospective budgeting and monthly reporting system is deleted.

9. Treatment of Earned Income Tax Credit

Present law

Present law provides an earned income tax credit (EITC) for the working poor. Eligible employees may elect to receive their EITC in the form of advance payments added to their paychecks, or may apply for a refund at the end of the year.

In determining earned income for AFDC, the State must assume that an individual is receiving on an advance monthly basis the EITC payment that he or she is eligible to receive, regardless of whether the person has applied for or received the advance payment, if it is determined that the individual will be eligible for the EITC in the tax year.

House bill

Requires States to disregard the earned income tax credit (EITC) from countable income in determining AFDC eligibility and benefit amounts. Effective October 1, 1984.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill modified to require that the earned income tax credit is counted only when actually received.

10. Demonstration Projects Testing One-Stop Service Delivery Systems

Present law

No provision.

House bill

Authorizes the appropriation of \$8 million to the Secretary of HHS to make grants to assist in the development and operation of pilot projects to demonstrate ways of improving service delivery under various human service programs.

From 3 to 5 Federally assisted demonstration projects (including not more than one statewide project) designed to test the effectiveness and efficiency of integrating the delivery of human services would be estab-

lished. Periodic reports from the Secretary of HHS as to the progress of selected projects and an independent study of projects at the end of the 3 year period would be required. The Secretary of HHS would be prohibited from conducting or approving any project that would lower or further restrict the benefit levels or income or resource standards, deductions or exclusions provided under any of the programs, or that would delay benefits. Effective October 1, 1984.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill. These demonstration projects are not intended to permit participating States to assume Social Security Administration responsibilities for accepting applications, making eligibility determinations, or paying benefits under the SSI program. However, State SSI activities could include providing outreach and referrals, coordinating services, and other ancillary services that are not directly part of the SSI claims taking and adjudication process.

11. Demonstration Projects Testing Common AFDC, Medicaid and Food Stamp Rules

Present law

No provision.

House bill

Allows up to five States to establish demonstration projects where AFDC definitions and budgeting procedures are conformed with the Medicaid or Food Stamp programs, or both. The Secretary would be prohibited from conducting or approving any project that would lower or further restrict the benefit levels or income or resource standards, deductions or exclusions provided under any of the programs, or that would delay the provision of benefits. A project may last up to five years. Effective October 1, 1984.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

12. Exempt Pregnant Women From Work Requirements

Present law

All applicants and recipients of AFDC must register for employment and training unless they are: children under age 16 or in school full time; ill, incapacitated, or elderly; too far from a project to participate; or needed at home to care for a person who is ill; a caretaker relative providing care on a substantially full-time basis for a child under age 6; employed at least 30 hours a week; or the parent of a child if the other parent is required to register. There is no special exemption from the requirement for pregnancy.

House bill

Adds to those who are exempted from the work registration requirement any individual who is the third trimester of pregnancy. Effective October 1, 1984.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

13. Treatment of Child Support Payments for CWEP Participation

Present law

Participants in CWEP may not be required to work in excess of the number of hours which when multiplied by the great-

er of the Federal or the applicable State minimum wage, equals the amount of aid payable to the family.

House bill

Excludes that portion of the AFDC payment which is offset by child support collections when computing the maximum number of hours an AFDC recipient may be required to participate in CWERP. Effective October 1, 1984.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

14. Recalculate Lump-Sum Income in Certain Circumstances

Present law

Lump-sum income received in a month is considered available as income in the month it is received and also in future months. Thus, if such income exceeds the standard of need in the month of receipt, the family is ineligible in that month. In addition, any amount of the income that exceeds the initial month's need standard is divided by the monthly need standard, and the family is ineligible for aid for the number of months resulting from that calculation. The ineligibility period may be changed only if a life threatening circumstance occurs.

House bill

Allows States to recalculate the period of ineligibility when: (1) circumstances change in ways that increase a family's financial need; and (2) such recalculation would promote the purposes of the AFDC program. Effective October 1, 1984.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with a modification limiting the recalculation to one or more of the following: (1) an event occurs which, had the family been receiving aid under the State plan, would have changed the amount of aid payable; or (2) the income received has become unavailable to the family for reasons beyond their control; or (3) the family incurs, becomes responsible for and pays medical expenses (as allowed by the State) which offset the lump-sum income. The agreement also clarifies that the lump-sum provision applies to earned and unearned income.

15. Waiver of Overpayments When Cost of Collection Would Exceed Amount Due

Present Law

States are required to correct overpayments and underpayments. Recovery of overpayments is made from current assistance payments, available income and resources, and, for an individual who no longer receives assistance, through the legal process. In any month when overpayments are being recovered, the AFDC payment, together with the recipient's liquid resources and all income, (without the application of earned income disregards), must equal at least 90 percent of the payment a family without other income would receive.

House bill

Allows States not to recover an overpayment when as determined by the State agency under regulations prescribed by the Secretary, it can be reasonably assumed that the cost to collect the overpayment will exceed the amount owed. Effective October 1, 1984.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill but permits the HHS Secretary to establish limits on the amount of an overpayment that can be waived. It is the understanding of the managers that these regulations will allow States automatically to waive recoupment of overpayments of less than \$35. States would continue to be required to attempt to recover all other overpayments but could subsequently elect not to pursue the overpayment if the cost to collect it would exceed the amount owed.

16. Limit on Recovery of Overpayments When AFDC Recipient Has Excess Assets

Present law

If, in any month, a recipient's assets exceed the asset limits (currently up to \$1,000), the individual is ineligible for benefits in that month and the entire amount of the benefit paid for that month is subject to recovery.

House bill

Limits the amount of the overpayment which may be recovered in the case of AFDC recipients whose assets exceed limitations to the lesser of: (1) the amount of the benefit paid; or (2) the greatest amount by which the total value of the assets exceeded the dollar asset limitation during the applicable period. Effective October 1, 1984.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

17. Protective Payments

Present law

States are required to make protective payments, instead of direct cash payments, on behalf of AFDC recipients under certain specified circumstances. Protective payments must be made when there is failure to cooperate in the work incentive (WIN) program or the community work experience program (CWERP) and if a parent fails to assign child support rights or refuses to cooperate with child support enforcement efforts. In these cases, the parent becomes ineligible for AFDC.

House bill

Allows, rather than requires, States to make protective payments in the following circumstances: when an individual is not in compliance with WIN or CWERP requirements, and when the parent is not in compliance with certain child support requirements. The parent would continue to be ineligible for AFDC but could receive the child's payment. Effective October 1, 1984.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill and clarifies that States are permitted to make payments to a parent who fails to comply with the above mentioned procedural requirements but only if, after all reasonable efforts have been made, the State is unable to identify a suitable protective payee, and prolonging the search may prove detrimental to the well-being of the child. The amendment does not change the requirement that individuals who do not meet the procedural requirements are subject to the penalty of being removed from the grant. However, there are circumstances in which welfare agencies, after making all reasonable efforts, have been unable to find responsible protective payees to act on behalf of the AFDC unit and receive the AFDC check.

18. Suspension of Error Rate Sanctions

Present law

Prior to TEFA (P.L. 97-248), States were required to reduce their AFDC payment error rates from fiscal year 1980 levels, to 4 percent by September 30, 1982. Regulations require the States to achieve one-third progress toward this 4-percent payment error rate goal in fiscal year 1981 and two-thirds progress in fiscal year 1982. The 4-percent goal is the standard for fiscal year 1983. An amendment in TEFA reduced the 4-percent error rate tolerance level to 3 percent, beginning with fiscal year 1984. States may be sanctioned by being required to repay the Federal Government the Federal cost of improperly paid benefits that exceed these goals. The Secretary may waive sanctions where he determines that a State is unable to reach the required reduction in a given year despite a good faith effort.

Twenty-eight States failed to meet their AFDC target error rates for the fiscal year 1981 quality control review period and have been notified that they are subject to sanctions totaling \$73.6 million unless the Secretary grants a waiver. Sanctions for fiscal year 1981, 1982, and 1983 are estimated by CBO to total \$174 million.

House bill

Provides that prior to October 1, 1985 no action shall be taken to enforce or collect any quality control penalties that may be imposed on a State because of improperly paid benefits, as determined by quality control reviews. This does not absolve States of the obligation. Effective October 1, 1984.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

19. Eligibility Requirements for Aliens

Present Law

For purposes of eligibility for benefits, legally admitted aliens who apply for benefits after September 30, 1981 are deemed to have the income and resources of their immigration sponsors available for their support for a period of 3 years after their entry into the United States. The provision does not apply to sponsors of aliens who are agencies or organizations. It applies only to individuals. It also does not apply to certain categories of aliens, including refugees.

House bill

Makes ineligible for benefits an alien with respect to whom an agency or organization has executed an affidavit of support as a sponsor for the alien's entry into the United States, unless the State agency determines that the sponsoring agency or organization is no longer in existence, or that it does not have the financial ability to meet the alien's needs. The determination would be made by the State agency based upon such criteria as it may specify and upon such documentary evidence as it may require. The same categories of aliens are excluded as provided in present law. Effective October 1, 1984.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

20. Information With Respect to Fugitive Felons

Present law

States may disclose information concerning ADPC applicants and recipients only for purposes connected with: (1) the administration of the child welfare, WIN, child support, SSI, Medicaid, or title XX social serv-

ices programs; (2) any investigation, prosecution, or criminal or civil proceedings related to the administration of the program; (3) the administration of any other Federally-assisted program which provides assistance or services based on need; or (4) any audit or similar activity conducted in connection with the administration of any such plan or program by an authorized governmental entity.

House bill

Allows the disclosure to law enforcement officers of the name and current address of any AFDC recipients who are fugitive felons if the agency is given the recipient's social security number and satisfactorily demonstrates that the recipient is a fugitive felon. Effective October 1, 1984.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

21. Payment Schedule for Reimbursement of Back Claims Due to the States

Present law

Two laws have recently been enacted with respect to Federal reimbursement for prior-year expenditures under the AFDC, Medicaid and title XX programs.

P.L. 96-272 provided that a claim for a pre-fiscal year 1980 expenditure may not be paid unless it was filed prior to January 1, 1981. (However, the Act also provided that payment may not be denied with respect to any expenditure involving court-ordered retroactive payments or audit exceptions, or adjustments to prior year costs, whenever filed.)

P.L. 97-276, the 1983 continuing resolution, provided that, notwithstanding P.L. 96-272 or a specified U.S. Circuit Court of Appeals decision, no payment could be made prior to fiscal year 1984 for pre-fiscal year 1979 expenditures unless the claim was filed within one year after the fiscal year in which the expenditure occurred. Beginning in fiscal year 1984, any payment required to be reimbursed by a court decision in any case filed prior to September 10, 1982, must be made in accordance with a schedule to be established under the Social Security Act.

There is disagreement as to whether the 1983 continuing resolution had the effect of permanently overriding the provision in P.L. 96-272 that requires reimbursement for any adjustments to prior year costs (and other specified payments), regardless of when they are filed, thereby extinguishing all claims for reimbursement for pre-fiscal year 1979 expenditures unless they were filed within one year after the fiscal year in which they occurred, or were asserted in a case filed prior to September 30, 1982.

House bill

Establishes the payment schedule called for in P.L. 97-276 with respect to court-ordered reimbursements as follows: for expenditures identified in the U.S. District Court decision *State of Connecticut v. Heckler* and allowed by the Department of HHS prior to enactment of this bill, payment must be made within 30 days after enactment. For other pre-fiscal year 1979 expenditures identified in that or any other decree in a suit filed prior to September 30, 1982, payment must be made as soon as the expenditure is determined by the Department to be an allowable claim. Effective on enactment.

Senate amendment

Identical provision. Also prohibits reimbursement for pre-fiscal year 1979 claims, whether asserted as an adjustment to prior

years costs or otherwise, if not filed by May 15, 1981 (unless they are identified in the above specified court decrees). Effective on enactment.

Conference agreement

The conference agreement follows the House bill.

22. Grant Diversion Program

Present law

AFDC applicants and recipients are required to register for work or training under the work incentive (WIN) program unless they are specifically exempt. States have the option of operating a WIN demonstration program (in lieu of the regular WIN program) which gives them greater flexibility in designing their work and training activities. In addition, they may operate community work experience, employment search, and work supplementation programs. Under a work supplementation program, States may reduce the need standard and/or revise the earned income disregards and use these funds to subsidize jobs for AFDC recipients. The statute limits Federal funding for an AFDC program which includes a work supplementation component and limits the subsidized jobs to those in public or nonprofit organizations.

There is no specific authority to operate grant diversion programs (in which all or part of the AFDC grant is used to supplement wages for jobs provided by public or private employers). These may be operated only under waivers granted by the Secretary.

House bill

Allows States to operate a grant diversion program in all or part of the State. States must enter into contracts with public or private employers in the State under which the employers will provide employment (in the form of on-the-job training or otherwise) for eligible individuals for up to nine months. The payment to each employer with respect to each individual who is employed must be the lesser of: (1) the maximum amount that could have been paid directly to the individual or his family at the time of initial placement on the job, if the individual or family had no income; or (2) 50 percent of the wages paid to the individual for his employment under the program. States are given discretion to determine which employers and job positions are to be included in the program.

To be eligible for the program an individual must be eligible to receive AFDC at the time of initial placement in a job under the program. Individuals employed in the program must be a given employee status. Wages paid under the program are considered earned income for purposes of any provision of law. For those individuals whose wages otherwise do not make them ineligible for benefits, States are allowed to apply the \$30 plus one-third disregard provision to earnings for the duration of the individual's participation in the program. States would not be subject to the funding limitations that apply to a work supplementation program.

Participants in the program (and their households) are eligible for Medicaid. Effective October 1, 1984.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with modifications. To allow States to operate grant diversion programs, the current work supplementation program would be modified in the following manner: (1) private employers could be used; (2) States would be permitted but not required

to offer a \$30 plus 1/3 earned income disregard for up to 9 months for participants; (3) federal funding would be limited to the aggregate of 9 months worth of unreduced welfare grants for each participant in the work supplementation program (or less if the person participates for less than 9 months); and (4) a State would be permitted to develop its own method by which AFDC grants are diverted to wages under the grant diversion program and would not be limited to the methods allowed under Section 414(b) (for example, States may choose to divert a grant on an individual case basis or pool the grants of AFDC recipients actually participating in the grant diversion program).

23. Permanent Extension of Provisions for Disregarding In-Kind Assistance

Present law

SSI

In determining income, the law provides for excluding any support or maintenance assistance furnished to or on behalf of an individual which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) is based on need for such support or maintenance, including assistance received to assist in meeting the costs of home energy (both heating and cooling), and which is: (a) assistance furnished in-kind by a private nonprofit agency; or (b) assistance furnished by a supplier of home heating oil or gas, or by an entity providing home energy.

AFDC

The same income exclusions may be applied to the AFDC program at the option of the State.

These are temporary provisions of law.

House bill

Repeals the time limitations on these provisions and makes them a permanent part of the law. Effective October 1, 1984.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill but would extend the provisions until October 1, 1987.

24. Parents and Siblings of Dependent Child Included in Filing Unit

Present law

There is no requirement in present law that parents and all siblings be included in the AFDC filing unit. Families applying for assistance may exclude from the filing unit certain family members who have income which might reduce the family benefit. In addition, a mother who is a minor may be excluded if she is supported by her parents. However, if she has no income of her own which may be attributed to her child, the child may qualify for assistance as a one-person unit. The income of the minor parent's parents is not considered in determining the eligibility of the child.

House bill

No provision.

Senate amendment

Requires States to include in the filing unit the parents and all minor siblings living with a dependent child who applies for or receives AFDC. SSI recipients and stepbrothers and stepsisters are excluded from this requirement. In addition, if a minor who is living in the same home as his parents applies for aid as the parent of a needy child, the income of the minor's parents would be counted as available to the filing unit. The rules that would be used in deter-

mining the amount of available income would be the same as are currently used in counting the income of stepparents. Effective April 1, 1984.

Conference agreement

The conference agreement follows the Senate amendment with the following modification: amountly disregard of \$50 of child support received by a family is established. The disregard is applied at eligibility determination and benefit calculation. The provision is effective October 1, 1984.

25. Households Headed by Minor Parents

Present law

A minor parent who has a child, and who leaves home, may apply for AFDC as a separate family unit. The income of the parents of the minor parent is not presumed to be available to the minor parent, because they are not sharing the household.

House bill

No provision.

Senate amendment

In the case of a minor parent who is not and has never been married, AFDC may be provided only if the minor parent resides with her parent or legal guardian, unless the State agency determines that: (1) the minor parent has no parent or legal guardian who is living and whose whereabouts are known; (2) the health and safety of the minor parent or the dependent child would be seriously jeopardized if she lived in the same residence with the parent or legal guardian; or (3) the minor parent has lived apart from the parent or legal guardian for a period of at least one year prior to the birth of the child, or before claiming aid, whichever is later.

The State agency would be given authority to make payments to a protective payee with respect to a minor parent affected by the provision, until the individual is no longer considered a minor by the State. Effective April 1, 1984.

Conference agreement

The conference agreement follows the House bill.

26. CWEP Work for Federal Agencies

Present law

States are authorized to conduct community work experience programs (CWEP). Employable recipients may be required to participate in these programs as a condition of eligibility for AFDC.

House bill

No provision.

Senate amendment

Amends the AFDC statute to make clear that participation in a CWEP program may include work performed for a Federal office or agency. Such work would not be considered to constitute Federal employment, and the State agency would be required to provide appropriate workers' compensation and tort claims protection to each participant. Effective on enactment.

Conference agreement

The conference agreement follows the Senate amendment with the following modification: worker's compensation is optional as under the current CWEP law. The agreement makes no change in existing State worker's compensation laws.

27. Earned Income of Full-Time Students

Present law

The AFDC statute provides that eligibility for benefits is limited to families with gross incomes (income before application of any disregards) at or below 150 percent of the State's standard of need. A provision was included in Public Law 97-377, the Job Train-

ing Partnership Act, which amended the gross income limitation to allow States to disregard the income of an AFDC youth which is derived from a program carried out under that Act. In such amounts and for such period of time (not to exceed six months with respect to earned income) as the Secretary of Health and Human Services may provide in regulations. The earnings of children in school who are not in a JTPA program are counted toward the 150 percent limit.

House bill

No provision.

Senate amendment

For purposes of applying the gross income limitation, States would be allowed to disregard the income of an AFDC child who is a full-time student, under the same limitation with respect to amounts and periods of time as are applied in the case of youths who participate in a program under the Job Training Partnership Act. Effective on enactment.

Conference agreement

The conference agreement follows the Senate amendment but establishes June 1, 1984 as the effective date for the provision.

28. Regulatory Initiative on medical support

Present law

The Child Support Enforcement (CSE) program is a Federal-State partnership under which States are required to have a program which locates absent parents, establishes paternity and obtains and enforces support orders. There is no provision in the child support statute that requires State agencies to undertake efforts to include medical support as part of any child support order.

House bill

No provision.

Senate amendment

Requires the Secretary of HHS to issue regulations which would require State CSE agencies to petition to court to include medical support as part of the child support order whenever health care coverage is available to the absent parent at a reasonable cost. In addition, the regulation would provide for improved information exchange between the CSE and medicaid agencies on the availability of health insurance coverage. Effective on enactment.

Conference agreement

The conference agreement follows the House bill.

Subtitle C—Implementation of Grass Commission Recommendations

1. Income and Eligibility Verification Procedures

Present law

Under present law, IRS wage information furnished by employers to IRS is available to state welfare agencies for use in their AFDC and food stamp programs, and to the Social Security Administration for administering the SSI program. However, IRS unearned income information (field by a financial institution or corporation with respect to payments to individuals in the form of interest, dividends, etc.) is not available to Federal and State agencies for use in the administration of these programs. Quarterly wage information from the unemployment compensation program is available to State welfare agencies in most States.

House bill

The House bill authorizes the IRS to disclose return information with respect to unearned income to Federal, State, or local agencies administering AFDC, SSI, Medicaid, food stamps, and the cash assistance

programs administered in Puerto Rico, Guam, and the Virgin Islands. Current law restrictions on unauthorized disclosure of confidential information are applied to agencies receiving the information.

Under the House bill, Federal, State or local agencies that are furnished unearned income return information by the IRS are prohibited from taking action thereon to reduce, suspend, terminate, or deny aid or benefits until the agency has taken steps to independently verify the information. The verification must include: (1) verification of the exact amount of the asset or income involved; (2) an evaluation of whether the individual has access to the asset or income involved for his or her own use; and (3) a determination regarding the time frame involved with regard to when the individual actually had the funds in question.

Senate amendment

The Senate amendment requires, rather than allows, the Secretary of Treasury to disclose unearned income return information upon request of the specified agencies. Disclosure can only be made to agencies that meet the requirements to safeguard this confidential information against disclosure. The Senate amendment contains a provision requiring verification of the unearned income information prior to taking action to reduce or terminate benefits that are similar to the House bill. In addition, the individual must be given notice of the proposed reduction or termination, and an opportunity to refute the information. Further, all applicants for and recipients of benefits under any program must be notified at the time of application, and periodically thereafter, that information verifying their assets and income will be requested and used.

The Senate amendment replaces existing statutory provisions relating to use (for purposes of AFDC) of return and other wage information and use of social security numbers, by adding a new section to the Social Security Act requiring States to have in effect an income and eligibility verification system for use in administering the AFDC, Medicaid, unemployment compensation, and food stamp programs (and the adult assistance programs in the territories). State agencies must request and make use of (1) wage and other income information available under the Internal Revenue Code; and (2) quarterly wage information. Each State is required to maintain a quarterly wage reporting system, although not necessarily through its unemployment compensation system.

The income and eligibility system requires use of standardized data formats to facilitate exchange of information, for the purpose of identifying and reducing ineligibility and incorrect payments. The requirement for standardized formats is intended to assure easy exchange of information by progress within States, and to facilitate the exchange of information among States. This requirement does not require the use by States of identical systems, but only that each State must be able to provide certain essential eligibility data in a format which can be used by the agencies and jurisdictions with which data exchanges are made. Information exchanged by state agencies is protected against unauthorized disclosure for other purposes.

Conference agreement

The conference agreement follows the Senate amendment with the following modifications: (1) the effective date of the requirement that States maintain a system of quarterly wage reporting as part of the income and eligibility verification system is

AFDC PROVISIONS OF HR 4170
(BUDGET RECONCILIATION BILL)

New provisions are effective October 1, 1984 unless otherwise indicated.

Asterisks in left-hand column indicate state options.

I. PROVISIONS WITH MAJOR STATE COST IMPACT

<u>NEW PROVISION</u>	<u>CURRENT LAW</u>
Provides for the monthly pass-through to the AFDC custodial parent of the first \$50 in child support collected by local District Attorneys. The pass-through would be exempt income to the family when the determination of the grant is made.	No such pass-on or disregard now exists.
2. Increases the gross income limit to 185 percent of the state's standard of need (MBSAC). The gross income limit for a family of three would increase from \$833 to \$1,027.	2. The gross income limit is 150 percent of the state's standard of need.
3. Allows the \$30 work incentive disregard for 12 months (the 1/3 disregard will still be limited to four months).	3. Disregard the first \$30 of earned income and one third of the remainder for four consecutive months.
4. To the extent states are unable to furnish such services directly, CWEP participants must be reimbursed for reasonable transportation and child care expenses (but not to exceed \$160/child) directly attributable to participation in CWEP.	4. Allowance is made for transportation and other costs not to exceed an amount established by the Secretary. Federal regulations provide that, for FFP, this amount shall not exceed \$25/month.
5. Extends Medicaid eligibility for nine months (and an additional six months at *state option), to families that lose AFDC eligibility due to application of the earnings disregard (four-month limit on \$30 plus 1/3 disregard).	5. Categorical Medicaid eligibility is lost when AFDC eligibility ceases for this reason. (In cases with increased earnings Medicaid continues for four months after AFDC discontinuance.)

II. PROVISIONS WITH SMALL COSTS, NO COSTS, OR SMALL SAVINGS

1. Extends the \$75 standard work expense disregard to part-time workers.	1. Allows the Secretary to prescribe a lesser amount for part-time employment. (California allows a \$50 disregard for part-time workers.)
2. Clarifies that the \$75 earnings disregard and other earnings disregards are deducted from gross earned income, prior to any deductions for taxes or other expenses. This provision would take effect immediately.	2. Does not clarify that these disregards are applied to gross earnings. Whether to apply the disregards to gross or net earnings has been the issue of several court suits, including <u>Turner v. Woods</u> in California which ruled that they must be applied to net earnings. We have appealed this ruling to the U.S. Supreme Court.
3. Excludes from countable resources burial plots, funeral agreements. In addition, for six months, excludes as a resource real property that the family is making a good faith effort to sell (with state option for an *additional three months) but considers AFDC paid during this period an over-payment.	3. These items are currently countable resources. (In California, funeral agreements under \$1,800 are exempt by State law.)

NEW PROVISIONCURRENT LAW

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| <p>4. Makes retrospective budgeting mandatory for cases that must monthly report. Requires monthly reporting for cases with recent work history or earned income* (and at state option for other cases) and provides for exemptions from monthly reporting when it is not cost effective.</p> <p>5. Permits the Secretary to waive AFDC MRRB requirements to achieve compatible requirements with those in the Food Stamp Program.</p> <p>6. The Earned Income Tax Credit is counted as income only when actually received.</p> <p>7. Appropriates \$8 million for three to five federally assisted demonstration projects to test the effectiveness and efficiency of integrating the delivery of human services.</p> <p>8. Eliminates work and training requirements for women in their third trimester of pregnancy.</p> <p>* 9. Permits the State to recalculate the period of ineligibility due to receipt of a lump sum payment when: (a) an event occurs which would have changed the amount of aid had the family been on aid; (b) the income received is unavailable to the family for reasons beyond their control; or (c) the family incurs and pays medical expenses which offset the lump sum income. Also, clarifies that lump sum income applies to earned and unearned income. Although this is a State option, California law requires the State to be no more restrictive than federal requirements.</p> | <p>4. Requires MRRB for all households and permits exemptions from monthly reporting for categories of households when it is not cost effective.</p> <p>5. No such waiver authority now exists for HHS outside of the 1115 Demonstration process.</p> <p>6. The Earned Income Tax Credit (EITC) is counted as income when actually received; in addition, the State must assume that an individual is receiving the EITC on an advance monthly basis regardless of whether the person has applied for it if it is determined that the person would be eligible for the EITC.</p> <p>7. No provision.</p> <p>8. There is no special exemption from the work registration requirement for women in their third trimester of pregnancy.</p> <p>9. If lump sum income (e.g., retroactive social security payment) exceeds the standard of need, the family is ineligible for the number of months which results when the lump sum amount is divided by the standard of need. The ineligibility period may be change only if a life threatening circumstance occurs.</p> |
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NEW PROVISION

- * 10. Allows states not to recover an overpayment when it can reasonably be assumed that the cost to collect will exceed the amount owed. It is expected that DHHS regulations will permit states automatically to waive recoupment of overpayments less than \$35.
- * 11. Allows states to make payments to a parent who has failed to meet WIN or Child Support requirements if, after all reasonable efforts, the State is unable to find a suitable protective payee (the parent is still himself not eligible for aid).
- 12. Makes ineligible for benefits an alien who is sponsored by an agency or organization provided that the agency still exists and has the financial ability to meet the alien's needs.
- * 13. Allows disclosure to law enforcement officers, the name and address of AFDC recipients who are fugitive felons if the agency is given the recipient's social security number and satisfactory evidence that the recipient is a fugitive felon.
- 14. Allows states more flexibility to operate grant diversion programs.
- * 15. Extends the state's option for excluding certain home energy assistance as income through October 1, 1987.

CURRENT LAW

- 10. States are required to attempt to recover all overpayments.
- 11. If a parent has failed to meet WIN or Child Support requirements, payment for the needs of the children must be made to a protective payee (someone other than the sanctioned parent).
- 12. A portion of the sponsor's income is attributed to an alien to determine his/her eligibility and grant amount for AFDC. This provision, however, does not apply to aliens who are sponsored by an organization (as opposed to an individual).
- 13. No provision with respect to disclosure in these circumstances.
- 14. Grant diversion programs can only be operated under waivers from DHHS and then only under limited circumstances.
- 15. The state's option for excluding certain home energy assistance as income applies only through June 1984.

NEW PROVISIONCURRENT LAW

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| <p>16. Requires states to include in the filing unit the parents and all minor siblings living with a dependent child. SSI recipients, stepbrothers, and step-sisters are excluded. The separate income of the minor siblings would be used in determining the family's eligibility and grant.</p> | <p>16. The parent(s) may decide which children they want to include in the AFDC filing and assistance unit. If a child has separate income it will generally be to the family's benefit not to include that child in the filing unit. (California already requires parents living with a dependent child to be in the filing unit.)</p> |
| <p>17. Makes clear that participation in a CWEP program may include work performed for a federal office or agency.</p> | <p>17. No provision.</p> |
| <p>* 18. States are permitted to disregard the earned income of a child who is a full-time student for both eligibility and grant computation for up to six months per calendar year. This provision is effective June 1, 1984.</p> | <p>18. States must include the earnings of children in determining eligibility under the gross income limit (150 percent of need standard) except when the income is derived from JTPA.</p> |
| <p>19. Requires state agencies to request and utilize wage information from State unemployment compensation agencies and wage, income and other information from SSA and IRS if useful in verifying eligibility and benefit amounts. States also must (a) obtain and independently verify IRS data; (b) collect quarterly wage data from employees; and (c) exchange information with other agencies if useful in verifying eligibility or benefit amounts. This provision also extends to SSI, Medi-Cal, and Food Stamps.</p> | <p>19. IRS wage information furnished by employees is available to state welfare agencies. IRS unearned income information is not. Quarterly wage information from EDD is available.</p> |
| <p>20. Provides for prompt payment by the federal agency of back claims that are allowable and pending.</p> | <p>20. No provision.</p> |